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REMARKS

In the Office Action, the Examiner sets forth both a restriction requirement between two groups of claims and an Election of Species between three allegedly patentably distinct species of the invention.

Restriction Requirement

The Office Action sets forth a restriction requirement between two groups of claims. Group I (the process), claims 26-39, is drawn to a method of conveying, and is classified in class 406, subclass 197. Group II (the apparatus), claims 40-50, is drawn to a fluid conveyor, and is classified in class 406, subclass 108.

The Examiner contends that the inventions of Groups I and II are distinct because the process as claimed can be practiced by another materially different apparatus and the apparatus as claimed can be used to practice another and materially different process. Specifically, the Examiner asserts that (i) the apparatus comprises a means to control pressure in the collection vessel, not required by the method, and (ii) the method “positively recites heat transfer in claim 3.”

These contentions are respectfully traversed. Nevertheless, to expedite prosecution, independent claims 26 and 40 have been amended herein to both improve their form and to obviate the Examiner’s concerns. Specifically, present independent claim 26 now recites a means to control pressure of the particulate matter collected in the collection vessel. Also, new apparatus claim 52 specifically recites heat transfer, thereby creating an apparatus claim that corresponds to the third method claim.

Applicant notes that the inventions of Groups I and II are now so closely related in the field of particulate conveying, including an apparatus and method for so doing, that a proper search of any of the claims would, of necessity, require a search of the others. Thus, it is submitted that all of the claims can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained.

Applicants further submit that any nominal burden placed upon the Examiner to search an additional subclass or two, necessary to determine the art relevant to Applicants' overall invention, is significantly outweighed by the public interest in not having to obtain and study several separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of multiple applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This places an unnecessary burden on both the Patent and Trademark Office and on Applicants.

In the interest of economy, for the Office, for the public-at-large, for Applicants, and in light of the foregoing amendments, reconsideration and withdrawal of the restriction requirement are requested.

Nevertheless, in order to comply with the requirements of 37 CFR 1.143, Applicant provisionally elects, with traverse, to prosecute the invention of Group II, namely claims 40-50 and newly added claim 52.

Election of Species

In the Office Action, the Examiner also asserts that the subject application contains claims directed to three patentably distinct species of the invention. As asserted by the Examiner, Species I reads on Figure 1; Species II reads on Figure 2; and Species III reads on Figure 3.

A careful review of the subject application reveals that the various embodiments are so closely related as to not require separate fields of search. Accordingly, neither Applicants nor the U.S. Patent and Trademark Office should be put through the trouble and expense entailed in multiple filing and prosecution. In addition, Applicants submit that the public-at-large should not be required to obtain and study several patents in order to have available all of the issued patent claims covering the subject invention.

Still further, the making of an election species is not mandatory in all instances where it is possible to do so. Rather, the Examiner may use his discretion and choose not to make an election of species where circumstances warrant. It is believed that such is the case in the subject application. Therefore, Applicants request, under 37 CFR 1.143, that the Examiner reconsider and withdraw the election requirement set forth in the above-noted Office Action.

Nevertheless, in order to comply with the requirements of 37 CFR 1.146 and MPEP § 809.02(a), Applicants provisionally elect, with traverse, to prosecute the invention of Species I. Applicants submit that claims 26-30, 37-43, and 49-52 read on the elected species, with claims 26 and 40 being generic. Notably, independent claim 26

recites a method of conveying particulate material containing reaction products of a high pressure reactor, from a supply vessel to a receiving vessel, by using a particular apparatus, whereas independent claim 40 recites an apparatus for conveying particulate material containing reaction products from of a high pressure reactor from a supply vessel to a receiving vessel. Species II and III, illustrated in Figures 2 and 3, respectively, are related to certain arrangements for releasing the pressure in the collecting vessel. Accordingly, Applicants believe that independent claims 26 and 40 each reads on each of the species, and thus, are generic.


Conclusion

Although, as discussed above, Applicants believe that the Restriction Requirement should be withdrawn—particularly in light of the newly presented amendments to independent claims 26 and 40—Applicants have elected, with traverse, to prosecute the claims of Group II, namely, claims 40-50 and 52. Also, with regard to the Election of Species Requirement, Applicants have elected, with traverse, to prosecute the invention of Species I. Applicants assert that claims 26-30, 37-43, and 49-52 read on the elected species, with claims 26 and 40 being generic. As such, should both the Restriction Requirement and the Election of Species requirement be upheld, claims 40-43, 49, 50, and 52 would be prosecuted, with claim 40 being generic.

Applicants further submit that the instant application is in condition for allowance. Favorable consideration and early passage to issue are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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